	<p align="center">California Department of Corrections ADMINISTRATIVE BULLETIN</p> <p align="center">Subject: DNA AND FORENSIC IDENTIFICATION DATA BASE AND DATA BANK ACT OF 1998</p>	Number:
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The purpose of this Administrative Bulletin (AB) is to announce a change in the California Department of Corrections' (CDC) policy and procedures regarding the collection of inmates and parolees' blood specimens, saliva samples, and thumb and palm print impressions as required by law. This AB is effective immediately and supersedes AB 97/3.

Effective January 1, 1999, California Penal Code (PC), Section 290.2, was repealed by Assembly Bill 1332, Chapter 696, Statutes of 1998 and replaced by the DNA AND FORENSIC IDENTIFICATION DATA BASE AND DATA BANK ACT OF 1998, PC, Sections 296 through 300.3.

The DNA AND FORENSIC IDENTIFICATION DATA BASE AND DATA BANK ACT OF 1998, expands the criteria for which offenders are subject to sample collection and requires the following:

- Two blood specimens.
- One saliva sample.
- Right thumb print (on blood sample vials).
- One full palm print impression of each hand on the Department of Justice (DOJ) Palm Print Card (**DOJ Form BCII 8012**).
- Completion of California (CAL)-DNA Program Specimen Information Card (**DOJ Form JUS-296-1**) which also requires a right thumb print. The CAL-DNA card is included in the blood and saliva sample kit.

Pursuant to PC, Section 296:

Offenders subject to sample collection include any person, including juveniles who 1) is convicted 2) plead guilty 3) plead no contest or 4) was found not guilty by reason of insanity, for specified offenses regardless of when the person was convicted of the qualifying offense and regardless of sentence imposed or disposition rendered.

For a complete listing of offenses applicable to DNA sample collection, see Attachment 1.

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Note: Pursuant to the Welfare and Institutions Code, Section 203, an order adjudging a minor to be a ward of the juvenile court shall not be deemed a conviction of a crime for any purpose. Therefore, only those juveniles adjudged to be a ward of the court who are required to register as a sex offender for a felony offense listed in PC, Section 290, are required to provide DNA samples pursuant to PC, Section 296(a)(2). These provisions are identical to the repealed PC, Section 290.2, and represent no change in the law for these cases.


Juveniles sentenced in a criminal court are “convicted.” Felony offenses listed in PC, Section 296(a)(1), are applicable to these offenders and DNA samples are required.

Offenders convicted of one of the specified offenses where the punishment for the offense was stayed are required to provide blood specimens, saliva samples, thumb and palm print impressions. Offenses, which are stricken, do not require sample collection.

Pursuant to PC, Section 296.1:

Any person, including juveniles, convicted of a felony offense described in PC, Section 296(a), who is confined in a State prison, county jail or California Youth Authority facility, including those who are: 1) convicted and sentenced to death, life without the possibility of parole, or any life or indeterminate term 2) accepted into this State under any of the interstate compact agreements; or 3) returned to custody for a violation of his or her parole, furlough, or other release and whose specimens, samples and impressions are not already in the possession of the DOJ DNA Laboratory as part of the DNA data bank program shall provide blood specimens, saliva samples, and thumb and palm print impressions as soon as practicable once identified. The PC, Section 296, applies regardless of when the person was convicted of the qualifying offense described in PC, Section 296(a), or a similar crime committed in another state that would constitute an offense listed in PC, Section 296(a).

These provisions are mandatory, and apply whether or not the court advises a person, including any juvenile, that he or she must provide the data bank and data base specimens, samples, thumb and palm print impressions.

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Any person, including juveniles, having a qualifying offense, and who is currently on parole, shall be required to provide specimens, samples, thumb and palm print impressions, if that person has not previously provided them.

Pursuant to PC, Section 296.2:

Upon notification to CDC or any law enforcement agency from the DNA Laboratory of the DOJ, that previously submitted samples [or print](#) impressions from an offender still under the jurisdiction of CDC are not usable for any reason, the offender shall be required to submit to collection of additional samples [and/or print impressions](#). If the offender has been discharged, samples [and/or print impressions](#) will not be retaken unless the offender is again returned to CDC jurisdiction.

Notification that a new DNA sample is required will appear on the inmate/parolee's Criminal Identification and Information (CI&I) rap sheet available through the California Law Enforcement Telecommunications System (CLETS). The notification will appear as: "REQUEST THAT NEW SAMPLES OF BLOOD AND SALIVA BE COLLECTED UNDER PC, SECTION 296, AND SUBMITTED TO THE DNA LABORATORY, ATTN: PC, SECTION 296 PROGRAM, 626 BANCROFT WAY, BERKELEY, CA, 94710. FOR ADDITIONAL INFORMATION PLEASE, E-MAIL THE DNA LABORATORY AT PC, SECTION 296@HDCDOJNET.STATE.CA.US."

Case Records staff shall immediately notify the Health Care Manager (HCM) to collect another set of blood specimens and saliva samples. A CDC Form 128-C, Medical-Psychiatric-Dental Chrono, stating that blood and saliva samples were resubmitted to the DOJ shall be forwarded by Health Care staff to Case Records for inclusion in the inmate's Central File (C-file). [Upon a request to resubmit print impressions, Receiving and Release \(R&R\) will reprint the inmate and forward the palm print card directly to the DOJ. R&R shall send a CDC Form 128-B, indicating the palm prints have been resubmitted in accordance with Penal Code Section 296 to Case Records for inclusion in the inmate's C-file.](#)

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SAMPLE COLLECTION PROCESS:

Collection of Samples: The required blood specimens, saliva samples, thumb and palm print impressions shall be collected from the inmate during the intake process at the mainline institution/facility, or as soon as administratively possible.

INMATES WHO REFUSE TO PROVIDE REQUIRED SAMPLES:


Any inmate who refuses to provide the requisite specimens, samples, thumb and palm print impressions can be assessed a loss of credit for a misdemeanor offense under the provisions of the California Code of Regulations, Title 15, Sections 3043.3(a)(3) and 3323(g).

INSTITUTIONS' CASE RECORDS STAFF:

Review of C-File for compliance with PC, Section 296:

Due to the increased number of qualifying offenses, convictions regardless of disposition, and retroactivity mandated by the new PC, Section 296, all C-files will need to be reviewed. Upon review, each C-file will be posted **one time** in black ink with "Reviewed for compliance with PC, SECTION 296" on the CDC Form 112, Chronological History. *Note: In no way does the one-time posting negate the need to review for PC, Section 296 during a routine C-file audit or when additional commitments are received.*

- Existing PC, Section 290.2 cases: C-files for offenders already identified for DNA samples pursuant to the previous PC, Section 290.2, as noted on the Legal Status Summary, need only the one-time posting described above.
- All other cases: Through review of California and Federal Bureau of Investigation rap sheets, Probation Officer's Reports, and legal documents facility Case Records staff shall identify inmates who are now required to provide blood specimens, saliva samples, and thumb and palm print impressions pursuant to PC, Section 296 and have not previously provided samples to the DOJ. In some cases a request for arrest disposition or an updated CI&I rap sheet from the CLETS may be necessary to determine if the offender is subject to sample collection.

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In December 1998, DOJ began updating rap sheets twice a month with the following notations:

1. "BLOOD SAMPLES HAVE BEEN COLLECTED AND RECEIVED BY THE DNA LABORATORY PURSUANT TO 296 PC."
2. "DNA TYPING HAS BEEN COMPLETED ON A BLOOD SAMPLE SUBMITTED UNDER 296 PC AND THE DATA IS STORED IN THE {BFS} FELON DATABASE."
3. "PALM PRINT ON FILE AT DOJ, FOR ADDITIONAL INFORMATION PLEASE E-MAIL PALMS@HDCDOJNET.STATE.CA.US."


Blood sample and palm print notation: Offenders whose rap sheet contains both notations, and those offenders already identified for DNA samples pursuant to the former PC, Section 290.2 as noted on the Legal Status Summary, need only the one-time C-file posting described above.

No palm print notation: As a result of prior legislative changes to former PC, Section 290.2, some rap sheets may contain a blood sample notation and not one for palm prints. In these cases, Case Records staff shall make a referral to the institution's Receiving and Release to have the inmate's palm prints taken and forwarded to DOJ. A CDC Form 128-B or CDC Form 128-C chrono stating the palm prints were taken shall be forwarded to the Case Records Office for inclusion in the inmate's C-file.

Request for new blood and saliva samples notation: When a rap sheet contains a notation requesting new blood and saliva samples be collected and submitted, Case Records staff shall immediately notify the institution's Health Care Manager to collect the samples. A chrono stating the blood samples were resubmitted to DOJ shall be forwarded to Case Records office for inclusion in the inmate's C-file.

To assist in initial C-file review, an Offender Based Information System (OBIS) listing of inmates currently incarcerated with an offense added by PC, Section 296, will be sent to each Records facility.

- Inmates less than 75 days to release: Facility Case Records staff shall generate a parole list from the Automated Release Date Tracking System (ARDTS) and

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immediately review C-files for PC, Section 296, criteria on all inmates within 75 days of release.


- Intake Audits: Review for PC, Section 296 compliance will be done during the normal Intake Audit process. A separate **one-time** posting of "Reviewed for compliance with PC, SECTION 296," will be made on the CDC Form 112. (This one time posting will be made until such time that CDC can ensure that all existing files have been reviewed). C-files already containing the one-time posting do not need to be posted again; however, if samples have not previously been collected, a complete review of convictions still needs to be done as part of the audit.
- 60-day Parole Audits: Facility Case Records staff shall review C-files for PC, Section 296 criteria on an ongoing basis as part of the normal 60-day parole audit process.
- Out-to-Court: Inmates going out-to-court are to have their C-file reviewed for compliance with PC, Section 296. Whenever possible, samples are to be taken prior to transfer/release out-to-court.
- C-file handling: Whenever a C-file is handled for any reason whatsoever, staff shall review the CDC Form 112 for the one-time posting "Reviewed for compliance with PC, SECTION 296." The C-files not posted shall be reviewed as stated above.

For offenders found to meet PC, Section 296 criteria, update the ARDTS PC, SECTION 296 field and immediately provide a list of inmates needing sample collection to the HCM or designee for prompt scheduling of collection. For each inmate on the list, attach a CDRQ (Offender Descriptor Information Query) from the OBIS and note the qualifying offense. The inmate's OBIS commitment screen shall also be updated to reflect the offender's sample collection requirement.

CLASSIFICATIONS STAFF:

- Correctional Counselor I Annual Review: Correctional Counselors shall review C-files during their regular annual review process for the CDC Form 112 posting stated above. The C-files not containing the posting shall be referred to a Case Records Analyst for review.

HEALTH CARE AND CUSTODY STAFF:

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Health Care staff shall, as soon as possible but not later than 30 days after receiving notification from Case Records staff, schedule the inmate(s) for blood, and saliva sample collection. The samples will be processed as required by PC, Section 296, and the procedures included in Attachment 2.

At no time after collection of the samples shall an inmate or parolee handle the kit supplied by DOJ for this process.


The withdrawal of blood, and collection of saliva samples shall be performed in a medically approved manner. Only health care providers trained and certified shall draw blood.

Trained custody staff, including Medical Technical Assistants, shall take the thumb and palm print impressions according to established procedures.

The inmates who meet the requirements under PC, Section 296, shall be issued a priority ducat to the designated sample collection station. Every effort should be made to collect all of the required specimens, samples, and thumb and palm print impressions in one location. An informing notice shall accompany the priority ducat, which states the following:

“Penal Code 296 requires the California Department of Corrections to collect blood, saliva, thumb, and palmprint samples from inmates who have been convicted of, plead guilty to, plead no contest to, or found guilty of insanity for certain offenses. According to our records, you meet the above criteria. As a result, you must report to the designated collection location as scheduled on the attached ducat. . Any inmate who refuses to provide the required specimens, samples, and thumb and palm print impressions, can be assessed a loss of credit for a misdemeanor offense under the provisions of the California Code of Regulations, Title 15, Sections 3043.3(a)(3) and 3323(g).”

The specimens, samples, thumb and palm print impressions shall be collected by authorized person(s) using a DOJ approved collection kit that includes all blood specimen vials, mailing tubes, labels, and instructions for the collection of the blood specimens, saliva samples, and thumbprints. Additionally, the DOJ shall provide all full palm print cards, mailing envelopes, and instructions for the collection of full palm prints.

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Persons authorized to draw blood for the data bank shall not be civilly or criminally liable either for withdrawing blood when done in accordance with medically accepted procedures, or for obtaining saliva samples or thumb or palm print impressions when performed in accordance with standard professional practices.

Blood vials, CAL-DNA Program Specimen Information Card (DOJ Form JUS-296-1) and saliva samples shall be sent in the kit supplied by DOJ, preaddressed to:

California Department of Justice
DNA Laboratory 296 Program
626 Bancroft Way
Berkeley, CA 94710


Palm prints on the Palm Print Card, DOJ Form BCII 8012 shall be sent to:

Automated Latent Print Section
Bureau of Criminal Identification and Information
California Department of Justice
P. O. Box 168007
Sacramento, CA 95816-8007

<p>The DOJ indicates that the palm print cards (BCII 8012) will be placed in the DNA kit supplied by DOJ, after July 1999, and shall be mailed with the DNA kit to the previously noted address.</p>

Health Care staff shall prepare a CDC Form 128-C, stating the requirements of PC, Section 296 have been met. The CDC Form 128-C shall be forwarded as appropriate and filed in the "Medical" section of the inmate's Unit Health Record, and in the "General Chronos" section of the inmate's C-file. Case Records staff shall ensure that all CDC Forms 128-C are placed in the inmates' C-files.

Language to be utilized on the CDC Form 128-C shall include:

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- *“Blood and saliva samples collected” with a corresponding date and the Health Care staff signature and title*
- *“Right thumb prints collected” with a corresponding date, the staff signature and title*
- *“Palm print impressions collected” with a corresponding date and custody staff signature, and title*
- *“Replacement samples taken” with a corresponding date, the reason, a reference to the supporting document(s), and the Health Care staff signature and title*

PAROLE AND COMMUNITY SERVICES DIVISION’S COMPLIANCE WITH THE DNA AND FORENSIC IDENTIFICATION DATA BASE AND DATA BANK ACT OF 1998:

Initial identification of parolees who meet the new offense criteria, and are required to provide specimens, samples, thumb and palm print impressions will be accomplished via lists generated by OBIS. Lists identifying parolees who meet this requirement, and a list of local law enforcement agencies who will be collecting the samples, will be forwarded to each parole unit office. The unit supervisor shall ensure each parolee identified on the list, receives the notice, and that an appointment is made for the parolees at the nearest collection site. Parolees shall be provided an appointment letter, and should be noticed in small groups, according to location, in order to avoid inundating local law enforcement agencies with a large number of parolees at the same time.

Intake Audits by Parole Records Staff: Review for PC, Section 296, will be done during the normal Intake Audit process. A separate **one-time** posting of “Reviewed for compliance with PC, Section, 296,” will be made on the CDC Form 112. (This one-time posting will be made until such time that CDC can ensure that all existing files have been reviewed). C-files already containing the one-time posting do not need to be posted again; however, if samples have not previously been collected, a complete review of convictions still needs to be done as part of the audit. The Parole Case Records Administrator shall ensure that the assigned unit supervisor is notified of all parolees identified via intake audit as requiring sample collections.

When a cooperative (Co-op) parolee from another state, who meets the offense criteria, is accepted into this State for supervision, the acceptance is conditional on the offender complying with the provisions of this law. This will require a revision to CDC Form 1538, Interstate Cooperative Case Opening/Closing Notice. In the interim, a

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letter will be developed for use by the Interstate Parole Unit for this purpose. The Co-op parolee shall be instructed to provide an appointment letter, and a photo I.D. at the testing site. Each parolee will provide the specimens, samples, thumb and palm print impressions within five calendar days of reporting to the assigned parole unit or within five calendar days of the notice whichever comes first.

California parolees shall be instructed to report to a local law enforcement agency, and provide the samples within five calendar days of the date of notice. The parolee shall also be instructed to provide the appointment letter and photo I.D. at the time of the sample collection. The local law enforcement agencies will provide proof to all parolees that the samples have been collected. The parolees shall return the proof of compliance to their parole agent, by mail or in person, within 14 days of the date of notice. The local law enforcement agencies will also submit documentation to the P&CSD Headquarters office, that the parolees have provided the specimens, samples, and thumb and palm print impressions.

- The documentation shall include the parolee's last name, first name, and CDC number, along with the printed name, signature, and title of the person verifying compliance, the facility name, and the date.
- Language to be utilized on the documentation shall include:
"Has complied with the provisions of the DNA and Forensic Identification Data Base and Data Bank Act of 1998, by providing blood specimens, saliva samples, right thumb prints, and a full palm print impression of each hand."

The Parole And Community Services Division's (P&CSD) Headquarters will compile the information and distribute it to the appropriate parole records office. The parole records office staff will file the information in the parolee's C-file and post the CDC Form 112 in black ink, with "Reviewed for compliance with PC, SECTION 296." The OBIS commitment screen shall also be updated to reflect the status of the parolee's sample collection requirement by parole records staff.

Any parolee who refuses or fails to provide the requisite specimens, samples, thumb and palm print impressions within the specified timeframe of receipt of the notice is guilty of a misdemeanor, punishable by both a fine of \$500, and imprisonment of up to one year in the county jail. The parolee may also be subject to revocation of parole.

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The requirements of this bulletin are effective immediately. Please inform all persons concerned of the contents of this bulletin which shall remain in effect until incorporated into the appropriate Department Operations Manual Sections. Inquiries regarding this bulletin should be directed to John R. Depue, Chief (A), Institution Programs at (916) 322-1843. For technical support contact either Terry Brayer, Facility Captain, Institution Services Unit, at (916) 323-4242 or Judy Metz, Chief, Correctional Case Records Services, at (916) 323-4062. [Inquiries specific to the health care aspects should be directed to Steve Soto, Staff Services Manager I, Health Care Services Division, at \(916\) 327-0577.](#) Inquiries from the Parole and Community Services Division should be directed to Richard Rimmer, at (916) 323-0464.

STEVEN CAMBRA, JR.
Chief Deputy Director
Field Operations

Attachments